

FCC MAIL SECTION

Federal Communications Commission

DA 00-649

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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MM Docket No. 99-9
Table of Allotments,)	RM-9434
FM Broadcast Stations.)	RM-9597
(Lancaster, Groveton and Milan, New)	
Hampshire) ¹)	

REPORT AND ORDER
(Proceeding Terminated)

Adopted: March 15, 2000

Released: March 24, 2000

By the Chief, Allocations Branch:

1. At the request of Dana Puopolo ("petitioner"), the Commission has before it the Notice of Proposed Rule Making, 14 FCC Rcd 1025 (1999), proposing the allotment of Channel 229A to Lancaster, New Hampshire, as the community's second local aural service. Petitioner filed comments reiterating its intention to apply for the channel, if allotted. A counterproposal was filed by North Country Radio, Inc. ("North Country"), requesting the allotment of Channel 229A to Groveton, New Hampshire.^{2 3} Reply comments were filed by Lunderville and North Country.⁴

¹ The communities of Groveton and Milan have been added to the caption.

² Public Notice of the filing of the counterproposal was given on April 29, 1999, Rept. No. 2327.

³ A counterproposal was also filed in this proceeding by Barry P. Lunderville ("Lunderville") requesting the allotment of Channel 229A to Milan, New Hampshire, as the community's first local aural service. However, Lunderville's counterproposal is not acceptable for consideration herein because he failed to include affidavits verifying that the statements contained in his counterproposal were accurate to the best of his knowledge. Section 1.52 of the Commission's Rules requires that the original of any document filed with the Commission by a party not represented by counsel shall be signed and verified by the party and his/her address stated. In the absence of such verification, the petition may be dismissed. Further, Section 1.420(b) of the Commission's Rules places petitioners on notice that their proposal must conform with the requirements of Section 1.52 regarding subscription and verification. See also, Amendment of Sections 1.420 and 73.3584 of the Commission's Rules Concerning Abuses of the Commission's Processes ("Abuse of Process"), 5 FCC Rcd 3910, n. 41 (1990). While we have considered proposals which did not initially comply with the verification requirement, it has only been in cases where adoption of the proposal would not adversely affect another allotment or proposed allotment. See, Grants, New Mexico, 8 FCC Rcd 851 (1993). In addition, the staff engineering study of the proposal found that use of Channel 229A at Milan, at the proposed coordinates, cannot provide the entire community with the required 70 dBu signal because of the intervening terrain.

⁴ These reply comments will not be considered herein. North Country's reply comments are directed exclusively to Lunderville's counterproposal, which, as discussed above, has not been accepted for consideration herein. We note that North Country's reply comments suggest the allotment of Channel 268A at Milan. However, this channel is not available for allotment at Milan. Rather, it was proposed earlier as an alternate channel for allotment at Northumberland, New Hampshire. See, MM Docket 99-42, 14 FCC Rcd 2350 (1999), and counterproposals thereto.

2. North Country states that Groveton has a 1990 U.S. Census population of 1,255 people and is within the township of Northumberland. Groveton has its own post office and zip code, its own fire and police departments, and elementary and high schools. In addition, North Country states that Groveton community organizations include the Groveton Fish & Game Club, the Loyal Order of Moose and the Groveton Trail Blazers Snowmobile Club, businesses include the Gropaco Federal Credit Union, Berlin City Bank, Siwooganock Guaranty Savings Bank, Weeks Medical Center, Groveton Pharmacy, Main/Armstrong Funeral Home and Riverside Speedway. In addition, it states that major employers include Wausau Paper Mills, Groveton Paperboard, Inc. and Wausau Carriers, Inc.

3. Based on the information before us, we believe that both communities could benefit from the allotment of Channel 229A. Therefore, in an attempt to satisfy both requests, the staff performed a search to determine if an alternate channel could be allotted to either community. However, we have determined that no channel other than Channel 229A is available for either community. Therefore, our decision is based on the Commission's FM allotment priorities.⁵ Using these priorities, the allotment of Channel 229A to Groveton would further priority (3), the provision of a first local aural service, while the allotment of the channel to Lancaster would further only priority (4), other public interest matters, since it already receives local aural service from FM Station KXXS. In addition, we note that the transmitter site proposed by both petitioner and North Country are the same. Therefore, the allotment at Groveton will provide Lancaster with an additional reception service. Accordingly, we find that the public interest would be served by allotting Channel 229A to Groveton, New Hampshire, as the community's first local aural service.

4. Channel 229A can be allotted to Groveton in compliance with the Commission's minimum distance separation requirements with a site restriction of 10 kilometers (6.2 miles) northwest to avoid a short-spacing to Station WMWV, Channel 228A, Conway, New Hampshire.⁶ Canadian concurrence in the allotment, as a specially negotiated short-spaced allotment with respect to unoccupied and unapplied for Channel 229A at East Angus, Quebec, has been obtained since Groveton is located within 320 kilometers of the U.S.-Canadian border.

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective May 8, 2000, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the community listed below, to read as follows:

⁵ The allotment priorities are: (1) first fulltime aural service; (2) second fulltime aural service; (3) first local aural service; and (4) other public interest matters. See, Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1982).

⁶ The coordinates for Channel 229A at Groveton are 44-33-55 North Latitude and 71-37-48 West Longitude. Use of these coordinates reflect a short-spacing to the outstanding construction permit (BPH-19990528ID) of Station WRRO, Channel 229C3, Addison, Vermont. However, we note that Station WRRO's one-step application was granted based upon, inter alia, its protection to the Groveton allotment pursuant to Section 73.215 of the Commission's Rules.

CityChannel No.

Groveton, New Hampshire

229A

6. A filing window for Channel 229A at Groveton, New Hampshire, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

7. IT IS FURTHER ORDERED, That the petition of Dana Puopolo to allot Channel 229A to Lancaster, New Hampshire (RM-9434) IS DENIED, and the counterproposal of Barry P. Lunderville to allot Channel 229A to Milan, New Hampshire, IS DISMISSED.

8. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

9. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau